

APPEAL NO. 020531
FILED APRIL 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 25, 2002. The hearing officer resolved the disputed issues before her by determining that the appellant (claimant) did not sustain a compensable injury on _____, and therefore did not have disability. The claimant appealed on sufficiency grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that he was injured at work when he tripped while moving a box of copy paper on _____; that he spoke to the safety coordinator that same day; that he did not report the injury as work related that day, because he was afraid of being terminated for filing a claim; and that he has had disability from June 12, 2001, through the date of the hearing. In support of his injury/disability claim, the claimant submitted medical records which indicate he has cervical, thoracic, and lumbar problems. In support of his position that the claimant did not sustain a compensable injury on _____, the carrier submitted evidence that the safety coordinator to whom the claimant testified that he spoke to on _____, was in fact out on maternity leave that day. The carrier further pointed out that the claimant did not seek medical attention for his injury until June 12, 2001.

The claimant had the burden to prove that he was injured in the course and scope of his employment. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The hearing officer determined that the claimant's testimony was generally not credible. The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). Our review of the record reveals that the hearing officer's injury determination is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the determination that the claimant did not sustain a compensable injury on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite

to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **SECURITY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
800 BRAZOS STREET
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Terri Kay Oliver
Appeals Judge